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DIGEST OF OTHER RECENT VIRGINIA DECISIONS.**Supreme Court of Appeals.**

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

JEFFERSON v. SCHOOL BOARD OF AMELIA COUNTY.

March 14, 1912.

[74 S. E. 164.]

Schools and School Districts (§ 65*)—School Land—Sale—Confirmation—Nature of Proceedings.—Code 1904, § 1466a, as amended by Acts 1910, c. 243, provides that a school board may petition the circuit court, or a judge thereof, to sell school property, and on evidence that such sale or exchange is proper the court or judge may order a sale or exchange, provided that, if the property is sold, it shall be sold to the highest bidder at public auction after due notice, etc. Held, that a proceeding under such section was an *ex parte* proceeding, in which the court or judge was expected to exercise discretion, so that, where a sale was made subject to confirmation, an order, at the instance of the school trustees, directing that the property be reoffered because of alleged inadequacy of offer at the first sale, did not constitute an abuse of discretion, so as to justify reversal at the instance of the bidder.

[Ed. Note.—For other cases, see Schools and School Districts, Cent. Dig. §§ 162-167; Dec. Dig. § 65.* 8 Va.-W. Va. Enc. Dig. 722.]

Appeal from Circuit Court, Amelia County.

Application by the School Board of Amelia County for the sale of land purchased for school purposes. A sale having been made to John G. Jefferson, the trustees applied for a nonconfirmation for inadequacy of price, to which application Jefferson filed objections. From an order refusing confirmation, he appeals. Affirmed.

J. G. Jefferson, Jr., for appellant.

Thos. R. Hardaway, Atty. Gen., for appellee.

HOFFMAN v. SHARTLE et al.

March 14, 1912.

[74 S. E. 171.]

1. Trial (§ 340*)—Reduction of Verdict—Power of Court.—The trial court, in exercising its right to reduce a verdict, may not act arbitrarily; and where the issue is the quantum of damages, and

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep't Indexes.

there is evidence to sustain the verdict, a mere difference of opinion does not justify the court in reducing it.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 795-799; Dec. Dig. § 340.* 4 Va.-W. Va. Enc. Dig. 203.]

2. Trial (§ 340*)—Reduction of Verdict—Power of Court.—Where the items of damages claimed could have legitimately resulted from a breach of contract complained of, and on the evidence the quantum of damages was for the jury, a reduction of the verdict is unauthorized, in the absence of any ground for interference therewith.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 795-799; Dec. Dig. § 340.* 4 Va.-W. Va. Enc. Dig. 203.]

3. Appeal and Error (§ 1175*)—Disposition of Case on Appeal—Judgment.—Where the trial court erroneously reduced the damages awarded by the jury, and gave judgment for a part only, the court, on writ of error, will render judgment for the balance of the damages, with interest thereon from the date of the judgment of the trial court, with costs.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 4573-4587; Dec. Dig. § 1175.* 1 Va.-W. Va. Enc. Dig. 628.]

Error to Circuit Court of City of Lynchburg.

Action by C. C. Hoffman against H. Shartle and others. There was a judgment granting insufficient relief, and plaintiff brings error. Reversed.

Don. P. Halsey and Thos. J. O'Brien, for plaintiff in error.
Roper & Davis, for defendants in error.

McINTYRE *v.* WRIGHT.

March 14, 1912.

[74 S. E. 172.]

1. Witnesses (§ 159*)—Competency—“Transaction” with Decedent.—Code 1904, § 3346, which provides that, where one of the original parties to a “transaction” is incapable of testifying by reason of death, etc., the adverse party shall not testify thereto, prevents a wife, in suing her husband’s estate for her distributive share in the estate of her brother, of which her husband was administrator, from testifying whether her husband paid her such distributive share (quoting 8 Words and Phrases, 7062).

[Ed. Note.—For other cases, see Witnesses, Cent. Dig. §§ 664, 666-669, 671-682; Dec. Dig. § 159.* 13 Va.-W. Va. Enc. Dig. 944.]

2. Executors and Administrators (§ 513*)—Accounts—Falsification—Evidence—Sufficiency.—Testimony that an administrator paid individual debts with checks drawn by him as administrator is insuffi-

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep’r Indexes.